THE HON'BLE SRI JUSTICE B.PRAKASH RAO

AND

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

-

WRIT APPEAL NO.2129 OF 1998

(DATED : 27.01.2006)

Between:

The Anantapur District Cooperative Central Bank Limited,

Anantapur rep. by its General Manager

…Appellant

A n d

B.Yogeswarudu S/o Sidda Reddy

Formerly Manager of Anantapur District Cooperative

Central Bank Ltd., Kadiri Branch, Anatapur District

…Respondent

THE HON'BLE SRI JUSTICE B.PRAKASH RAO

AND

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO.2129 OF 1998

JUDGMENT: (Per Hon'ble Sri Justice B.Prakash Rao)

Heard Sri O.Manohar Reddy, learned counsel appearing on behalf of the appellant and Sri A.Bhaskara Chary, learned counsel appearing on behalf of the respondent.

The appellant is aggrieved against the order allowing the writ petition filed at the instance of the respondent-petitioner, as per orders in W.P.No.11526 of 1989, dated 04.09.1998.

Few facts, which are necessary for disposal of this appeal, are that the respondent was working as Branch Manager with the appellant, at the relevant point

of time. He was issued a charge memo dated 03.10.1985 to which he filed an explanation. However, subsequent to the enquiry conducted under Section 51 of the A.P. Cooperative Societies Act, another charge memo dated 25.04.1988 was issued to which also respondent filed an explanation. This was followed by an enquiry. Though, according to the appellant, notices dated 9.5.1989 and 5.6.1989 were issued, the respondent-petitioner did not appear and ultimately, the enquiry officer had to proceed with the enquiry in his absence. Thereupon, under the impugned order dated 29.6.1989, the respondent-petitioner was dismissed from service. Challenging the same, the present writ petition has been filed by the respondent *inter alia* on various grounds.

The learned single Judge after going through the respective submissions, found that there was no proper enquiry into the matter and thus set aside the impugned order holding that the respondent-petitioner shall be continued in service. It was further observed that the services of the respondent-petitioner pending enquiry should be taken in to consideration for the purpose of pensionary benefits and for other consequential benefits.

The main grievance of the appellant is that having regard to such an observation, the question of continuing the respondent-petitioner in service does not arise and in fact, it is also pointed out that subsequent to the disposal of the writ petition, as per the interim orders granted by this Court, enquiry was conducted and further action has been taken.

Having considered the submissions made on either side in detail and on perusal of the material, it is seen that admittedly, the enquiry was one, without proper opportunity. Therefore, the learned single Judge allowed the writ petition by setting aside the impugned order on the ground that there was no proper enquiry. Subsequent to the disposal of the writ petition, a fresh enquiry was initiated and a notice was issued to the respondent and report has been submitted. Any action taken subsequent to the disposal of the writ petition cannot form part of subject matter of this appeal though the respondent sought to attack the correctness of the said proceedings. It is always open for the respondent-petitioner to initiate fresh

proceedings challenging the subsequent developments and also enquiry proceedings appearing against him.

Having regard to the fact that enquiry has already been conducted, we do not find any merits to interfere with the orders passed by the learned single Judge. The observation made by the learned single Judge is only for the purpose of calculating the pensionary benefits and other consequential benefits to which the respondent-petitioner is entitled to and not otherwise.

Subject to the above, the Writ Appeal is dismissed. No costs.

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B.PRAKASH RAO, J

27.01.2006

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P.LAKSHMANA REDDY, J

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